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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/789,807	02/27/2004	Benjamin Tjoa	020093-003710US	5631
20350	7590	08/23/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			JUEDES, AMY E	
			ART UNIT	PAPER NUMBER
			1644	

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/789,807

Applicant(s)

TJOA ET AL.

Examiner

Amy E. Juedes, Ph.D.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-24 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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DETAILED ACTION

*Species Election*

1. This application contains claims directed to the following patentably distinct species of the claimed invention. Applicant is required under 35 U.S.C 121 (1) to elect a single disclosed species to which claims would be restricted if no generic claim is finally held to be allowable and (2) to list all claims readable thereon including those subsequently added.

2. Applicant is required to elect a single disclosed species for inhibiting adhesion of monocytic dendritic cells from the group consisting of:

- A) high concentration of animal or human protein,
- B) low cellular avidity culture vessel, or
- C) metal chelator

Additionally, if species A is elected, applicant is further required to elect a single disclosed sub-species, wherein the protein is:

- a) albumin,
- b) serum,
- c) plasma,
- d) gelatin, or
- e) poly-amino acid

and wherein the culture vessel is:

- a) polystyrene,
- b) glass coated polystyrene,
- c) styrene, or
- d) glass

Additionally, if species B, low avidity culture vessel, is elected, applicant is further required to elect a single disclosed sub-species of culture vessel from the group consisting of:

- a) polypropylene,
- b) Teflon, or
- c) PFTE

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These are distinct species because their structures and physiochemical properties differ. For example, a protein is derived from a cell, while a culture vessel is made up of synthetic material. Furthermore, the subspecies are distinct because their structures and physiochemical properties differ.

3. Additionally, applicant is further required to elect a single disclosed species of dendritic cell maturation agent from the group consisting of:

- A) BCG,
- B) LPS,
- C) TNF- $\alpha$ ,
- D) IFN- $\gamma$ , or
- E) combinations thereof

It is noted that if E) combinations thereof is elected, applicant is further required to identify a particular combination for examination. These species are distinct because their structures, functions, and physiochemical properties differ. For example, LPS is a polysaccharide derived from bacterial cell walls, whereas TNF- $\alpha$  is a protein expressed by mammalian cells. While TNF- $\alpha$  and IFN- $\gamma$  are both cytokines, they are still functionally distinct, bind distinct receptors, and hence transmit distinct signals to a target cell.

4. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

5. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant

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must indicate which are readable upon the elected species. MPEP § 809.02(a).


6. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy E. Juedes, Ph.D. whose telephone number is 571-272-4471. The examiner can normally be reached on 8am - 5pm from Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Amy E. Juedes, Ph.D.  
Patent Examiner  
Technology Center 1600  
August 11, 2005

  
8/15/05  
G.R. EWOLDT, PH.D.  
PRIMARY EXAMINER